



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 16, 1998

Ms. Lan P. Nguyen
Assistant City Attorney
City of Houston
Legal Department
P.O. Box 1562
Houston, Texas 77251-1562

OR98-1682

Dear Ms. Nguyen:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116556.

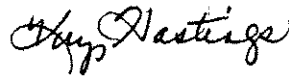
The City of Houston (the "city") received a request for various information pertaining to the Maxwell Lane Gate in the Idylwood subdivision. You state that the city will make available to the requestor information responsive to request items 1, 4 and 5, with the exception of draft conciliation agreements exchanged between the city and the United States Department of Housing and Urban Development. See Open Records Letter No. 97-0051 (1997) (excepting conciliation agreements from public disclosure based on section 552.101 in conjunction with 24 C.F.R. § 103.330(a)). You state that no documents responsive to request item 3 exist. You claim that information responsive to request item 2 is excepted from disclosure under sections 552.103, 552.107(1) and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

This office has stated that if a governmental body wishes to withhold attorney work product under section 552.111, it must first show that the work product was created for trial or in anticipation of litigation under the test articulated in *National Union Fire Insurance Co. v. Valdez*, 863 S.W.2d 458 (Tex. 1993) and the work product consists of or tends to reveal an attorney's mental processes, conclusions and legal theories. See Open Records Decision No. 647 (1996) at 5. You assert that the city reasonably anticipates litigation because the city is currently under investigation by HUD for complaints containing allegations of racial and economic discrimination with regard to some of the city's neighborhood traffic projects. You state that the information was developed in anticipation of litigation regarding the city's neighborhood traffic projects. You also state that the information was "created as a result of the HUD complaints and reflected the mental processes, conclusions and legal theories of the assistant city attorneys."

We conclude that the city has established that the information is privileged attorney work product. Accordingly, the city may withhold the information from the requestor based on section 552.111.

In light of our conclusion under section 552.111, we need not address your other claims. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Kay Hastings".

Kay Hastings
Assistant Attorney General
Open Records Division

KHH/mjc

Ref.:ID# 116556

Enclosures: Submitted documents

cc: Mr. Walter J. Cicack
Meyer, Orlando & Evans
2929 Allen Parkway, Suite 2300
Houston, Texas 77019
(w/o enclosures)